

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SANDRA DRAKE and RANDY SMITH,)
on behalf of themselves and others similarly)
situated,)
)
Plaintiffs,)
)
)
vs.) Case No. 4:14-cv-01535-JAR
)
STEAK N SHAKE OPERATIONS, INC.,)
)
)
Defendant.)
)

MEMORANDUM AND ORDER

This matter is before the Court on Defendant Steak N Shake Operations, Inc.’s (“SnS”) Motion for Summary Judgment as to opt-in Plaintiff Katrina Wolfshoefer (Doc. 158), and Plaintiffs’ Motion to Dismiss (Doc. 174).

On October 25, 2017, the Court granted Plaintiffs’ Motion to Stay Briefing on two motions for summary judgment until it ruled on the Parties’ competing motions to certify/decertify Plaintiffs’ class action. (Doc. 167.) One of those motions for summary judgment was directed at Wolfshoefer on the ground that her deposition testimony conclusively established that she met the definition of an overtime-exempt managerial and/or administrative employee. (Docs. 158, 159.) In the Court’s order granting the Motion to Stay, the Court opined that, in the event it certified Plaintiffs’ class action, “Defendant’s arguments regarding Wolfshoefer will likely be common to the other class members.” (Doc. 167 at 4.)

On December 22, 2017, the Court granted Plaintiffs’ Motion to Certify. (Doc. 170.) On January 10, 2018, the Court lifted the stay on briefing. (Doc. 173.) Rather than respond to SnS’s

Motion for Summary Judgment, Plaintiffs moved to dismiss it, arguing that the Court's order granting certification rendered the motion moot. (Docs. 174, 175.) SnS opposes the Motion to Dismiss and has filed a sur-reply. (Doc. 190.)

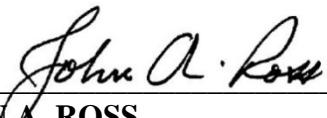
The Court concludes that SnS's Motion for Summary Judgment is not moot as Plaintiffs argue. "A case becomes moot—and therefore no longer a 'Case' or 'Controversy' for purposes of Article III—'when the issues presented are no longer "live" or the parties lack a legally cognizable interest in the outcome.'" *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013) (quoting *Murphy v. Hunt*, 455 U.S. 478, 481 (1982)). While the Court's certification order may bear directly on the merits of SnS's Motion for Summary Judgment, SnS retains a cognizable legal interest in the outcome of that motion. For this reason, the Court will deny Plaintiffs' Motion to Dismiss (Doc. 174).

Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' Motion to Dismiss Defendant's Motion for Summary Judgment as to Katrina Wolfshoefer (Doc. 174) is **DENIED**.

IT IS FURTHER ORDERED that Plaintiffs shall, no later than Friday, September 7, 2018, file their response to Defendant's Motion for Summary Judgment (Doc. 158). Defendant shall, no later than Wednesday, September 12, 2018, file any reply.

Dated this 5th day of September, 2018.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE